

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

EDWARD V. RAY, JR.,

No. C 10-1582 SI (pr)

Petitioner,

**ORDER TO STAY PROCEEDINGS  
AND ADMINISTRATIVELY CLOSE  
CASE**

v.

MATTHEW CATE, Secretary of  
California Department of  
Corrections & Rehabilitation,

Respondent.

Petitioner has filed a motion for a stay of this action so that he may exhaust state court remedies for some unexhausted claims in his habeas petition that he wishes to present to this court for federal habeas review. Upon due consideration, the court GRANTS petitioner's motion to stay. (Docket # 15.) Liberally construing the motion, it appears that petitioner has shown good cause for his failure to exhaust the claims before filing this action, the claims do not appear patently meritless, and there does not appear to be any intentionally dilatory litigation tactic by petitioner. *See Rhines v. Weber*, 544 U.S. 269, 277-78 (2005).


This action is now STAYED and the clerk shall ADMINISTRATIVELY CLOSE the action. Nothing further will take place in this action until petitioner exhausts the unexhausted claims and, within thirty days of doing so, moves to reopen this action, lift the court's stay and amend his petition to add his new claims. When he finishes in state court and moves to reopen, petitioner must clearly identify each claim that has been exhausted in state court.

Petitioner must act diligently to get his state court petition filed and promptly return to federal court after his state court proceedings have concluded. If petitioner does not return

1 within thirty days of exhausting the unexhausted claims, the action or the unexhausted claims  
2 may be dismissed. *See id.*; *Kelly v. Small*, 315 F.3d 1063, 1071 (9th Cir. 2003). Petitioner also  
3 must exercise continuous diligence during the exhaustion process in the state courts. Imposing  
4 these time limits for petitioner to expeditiously get to, through, and back from state court furthers  
5 the AEDPA's goals of encouraging finality of judgments and streamlining federal habeas  
6 proceedings. *See Rhines*, 544 U.S. at 278.

7 IT IS SO ORDERED.

8 DATED: June 21, 2011

  
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SUSAN ILLSTON  
United States District Judge